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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:

Case No.: BK-S-12-12349-MKN
Chapter: 11

American West Development, Inc.,
Reorganized Debtor.

**DECLARATION OF DANA DWIGGINS,
ESQ., IN SUPPORT OF SCOTT LYLE
GRAVES CANARELLI'S OPPOSITION
TO REORGANIZED DEBTOR'S
MOTION (I) TO REOPEN CHAPTER 11
CASE; AND (II) FOR AN ORDER TO
SHOW CAUSE WHY SCOTT LYLE
GRAVES CANARELLI AND HIS
COUNSEL SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATING PLAN
DISCHARGE, EXCULPATION,
RELEASE AND INJUNCTIVE
PROVISIONS**

DATE: March 21, 2018

TIME: 9:30 a.m.

Dana Dwiggins, Esq., being first duly sworn according to law, deposes and says:

1. The following facts are personally known to me, and if called to testify thereto, I could and would do so, under oath.

24 2. I am a partner at Solomon Dwiggins & Freer, Ltd., attorneys for Scott Lyle
25 Graves Canarelli (“Scott”, “Scott Canarelli”, or “Petitioner”), and make this Declaration in
26 support of Petitioner’s Opposition to the Reorganized Debtor’s Motion (I) to Reopen Chapter
27 11 Case; and (II) for an Order to Show Cause why Scott Lyle Graves Canarelli and his

1 Counsel Should not be Held in Contempt for Violating Plan Discharge, Exculpation, Release
2 And Injunctive Provisions (the "Motion").

3 3. The documents which are attached to the Opposition as Exhibits 2, 6, and 7
4 are true and correct copies of pleadings on file in the case designated the Matter of the Scott
5 Lyle Graves Canarelli Irrevocable Trust, dated February 24, 1998, Eighth Judicial District
6 Court Case No.: P-13-07912-T (the "Probate Court Proceedings"), pending in Dept. No.
7 XXVI/PROBATE, before the Hon. Judge Gloria Sturman (the "Probate Court").
8

9 4. As reflected in the Opposition, the Original Petition in the Probate Proceeding
10 was filed on September 30, 2013. Trustee Edward Lubbers filed a response to the Original
11 Petition, and on October 24, 2013, the Probate Court entered an order compelling the
12 Trustees to provide an inventory and accounting for the assets of the Irrevocable Trust for the
13 time period between 1998-2013.
14

15 5. It was not until approximately September of 2016 that the Trustees finally
16 submitted purported accountings as required by the Probate Court. There are outstanding
17 issues relating to the accounting and the reconciliation of the financial information contained
18 therein with tax returns and other financials.
19

20 6. On June 27, 2017, Petitioner filed the Surcharge Petition. Former Trustees
21 Lawrence Canarelli, and Heidi Canarelli and Trustee Edward Lubbers filed a response to the
22 Surcharge Petition, which did not raise any defense with respect to the ADWI bankruptcy.

23 7. In connection with preparation for trial on the Surcharge Petition, on October
24 9, 2017, Petitioner served a subpoena on AWDI. On November 30, 2017, AWDI responded
25 by submitting a written objection to the subpoena. In response to such objections, I sent a
26 letter on January 9, 2018, responding to the objections, but agreeing to narrow the scope of
27 the subpoena. Counsel for the AWDI thereafter attended a meet and confer with me on
28

1 January 23, 2018, but we were unable to reach an agreement. Petitioner has not yet filed a
2 motion to compel with regard to the subpoena issued to AWDI.

3 8. A hearing was held before the Discovery Commissioner on March 2, 2018
4 with regard to discovery directed to other entities (despite the Trustees' request to postpone
5 the hearing until after the instant Motion is heard by this Court). The Discovery
6 Commissioner recommended, in part, that the Trustees produce documents specific to certain
7 requests made in written discovery.
8

I declare under penalty of perjury that the foregoing is true and correct.

10 Dated this 7th day of March, 2018.

/s/ Dana Dwiggins
DANA DWIGGINS, ESQ.